DECISION

THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-214256 DATE: June 28, 1984

MATTER OF: Felix C. Cornell

DIGEST:

An employee, who 3 years and 8 months after his transfer, applied for an extension of the time period in which to claim reimbursement of real estate expenses is not entitled to reimbursement of real estate selling expenses, since his residence was not sold within the 2-year period after his transfer, as required by travel regulations then in effect. The 3-year maximum period under amended regulations did not apply because the employee's 2-year period had expired before the amendment became effective.

Mr. Felix C. Cornell, an employee of the Department of Labor, is not entitled to reimbursement of real estate selling expenses because the sale of his home was not accomplished within the required time period after his transfer.[1]

Mr. Cornell reported for duty at his new duty station, Las Vegas, Nevada, on November 29, 1979. Upon notice of his transfer, he had immediately listed his residence for sale at his old duty station, Tucson, Arizona, but because of adverse conditions in the housing market he was unable to sell it until August 9, 1983. He requested an extension of the time limitation which was denied by the Department.

Under 5 U.S.C. § 5724a, a Federal employee may be reimbursed certain expenses incurred in connection with real estate transactions resulting from a permanent change of station. Regulations implementing this authority are found in part 2, chapter 6 of the Federal Travel Regulations <u>in corp. by ref</u>. 41 C.F.R. §§ 101-7.003. Paragraph 2-6.1e of the FTR, in effect at the time, provided that an employee had 1 year from his reporting date at the new duty station to reach settlement for sale and purchase of residences in order to be reimbursed. This 1 year could be extended

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1 The Assistant Secretary for Administration and Management, Department of Labor, requested this decision.

upon the employee's written request for 1 additional year so long as the particular residence transaction was reasonably related to the change of station. Since these regulations are issued pursuant to 5 U.S.C. § 5724a, they have the force and effect of law.

Mr. Cornell's position is that the time limitations contained in the regulations relating to real estate transactions were unrealistic in view of the state of the real estate market at the time of his transfer. He feels that he should have been granted an extension of the period in which he was required to sell his house for the purpose of reimbursement of some of the expenses.

Mr. Cornell's transfer became effective on November 29, 1979, the date he reported at his new duty station. Thus, the maximum period for sale of his home, even if he had applied for and been granted a 1-year extension, ended November 29, 1981.

Effective October 1, 1982, para. 2-6.1e of the FTR was changed to provide for a 2-year period to complete real estate transactions with a 1-year extension. See GSA Bulletin FPMR A-40, Supplement 4, 47 Fed.Reg. 44, 565, October 8, 1982. The new 3-year maximum was applicable by regulation to employees whose 2-year limitation (1 year plus 1 year extension) had not expired prior to the issuance date of the amendment on August 23, 1982. Had Mr. Cornell's 2-year period not ended by that date, he would have been eligible for an additional 1-year extension. However, Mr. Cornell's maximum 2-year period expired November 29, 1981, almost 9 months before the amendment was issued. Additionally, he did not sell his residence until 3 years and 8 months after his transfer. Thus, even if he could have qualified under the 3-year limitation he would not have sold his residence in time to qualify for reimbursement of the cost involved.

We have held that regardless of extenuating circumstances, a waiver of this time limit may not be granted and reimbursement of real estate expenses may not be allowed if the sale is after the time period prescribed by the regulations. William R. Walberg, 58 Comp. Gen. 539 (1979).

While it is unfortunate that Mr. Cornell could not sell his house within the prescribed period, we have no authority to waive the requirements and limitations of the regulations. Accordingly, Mr. Cornell may not be granted an extension and he is not entitled to reimbursement of the expenses incurred in selling his house.

Milton J. Socolar

Acting Comptroller General
of the United States